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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,347	01/04/2002	Eric Sitbon	P07245USOO/DEJ	3171

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ALEXANDRIA, VA 22314

EXAMINER

BRITTAIN, JAMES R

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 01/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/857,347

Applicant(s)

SITBON, ERIC

Examiner

James R. Brittain

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6, 8-11, 13, 21-24, 34, 35, 44 and 47 is/are allowed.
- 6) ☒ Claim(s) 7, 12, 14-20, 25-33, 36-43, 45, 46, 48 and 49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 3677

DETAILED ACTION

Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in France on December 3, 1998. It is noted, however, that applicant has not filed a certified copy of the French application 98/15307 as required by 35 U.S.C. 119(b).

Information Disclosure Statement

The references cited in the Search Report for the international application have been considered, but will not be listed on any patent resulting from this application because they were not provided on a separate list in compliance with 37 CFR 1.98(a)(1). In order to have the references printed on such resulting patent, a separate listing, preferably on a PTO-1449 form, must be filed within the set period for reply to this Office action.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7, 12, 14-20, 25-33, 36-43, 45, 46, 48, and 49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following terms lack clear antecedent basis: "the means for mechanically moving the sheath(es)" (claim 12, line 2); "the type Neodymium Iron Boron" (claim 25, line 2); "the means for motorisation of at least one of the movable magnets or

Art Unit: 3677

ferromagnetic parts" (claim 27, lines 2-3); "the mechanical movement of the corresponding sheath" (claim 27, lines 4-5); "the means for motorisation of at least one first and at least one second magnet or ferromagnetic element" (claim 28, lines 2-4); "the first one" (claim 28, lines 4-5); "the item" (claim 29, line 3); "the means for storing ... situations" (claim 30, lines 2-4); "the means for remote activation" (claim 31, lines 1-2; claim 32, lines 1-2); "the means (234, 235, 236) for detecting ... or fitted" (claim 38, lines 1-3); "the detection and signaling system" (claim 39, lines 1-2); "the means for triggering an alarm ... complied with" (claim 40, lines 1-3); "the sole of the shoe" (claim 41, line 2); "the hem of a garment" (claim 42, line 1); "the two solid sections on either side of it" (claim 45, line 5; claim 46, line 4); "the motorisation system" (claim 46, lines 9-10); "the weft" (claim 48, line 2); and "the same sheath" (claim 17, line 2). The use of "it" (claim 17, line 1; claim 19, line 2; claim 26, line 1; claim 28, line 1; claim 38, line 1; claim 40, line 1; claim 43, line 1; claim 45, lines 1, 5; claim 46, lines 2, 4; and claim 48, line 1; claim 49, line 2) is indefinite because it is unclear what antecedent term is being referred to. It is suggested that applicant explicitly put in the antecedent term. The use of terms in parentheses such as (s), (es) or (are) to denote the plural (claim 7, line 3; claim 26, lines 2, 3; claim 27, line 5) renders the claims indefinite because it is not clear if applicant is positively claiming the subject matter in parentheses or not. Claim 1 positively recites magnets or in the alternative ferromagnetic elements. Each of claims 14-16, 18, 20, 25, 36, and 37 refers to the magnet or each magnet, but since claim 1 can be directed to ferromagnetic elements that are magnetic it is unclear if these claims are restricted to magnets alone. Claim 41 is indefinite because claim 27 is drawn to the

Art Unit: 3677

device alone and not to "A device for a shoe as claimed in claim 27". This language is misdescriptive of the scope of claim 27. Claim 42 is indefinite because claim 1 is drawn to a device alone and not to "A device for adjusting the hem of a garment, as claimed in claim 1". This language is misdescriptive of the scope of claim 1. Claim 46 is indefinite because claim 27 is drawn to the device alone and not to "A shoe as claimed in claim 27". This language is misdescriptive of the scope of claim 27. Claim 48 is indefinite because claim 38 is drawn to a device alone and not to "A garment as claimed in claim 38". This language is misdescriptive of the scope of claim 38. Claim 49 is indefinite because the passage "such as ... or other types of leather goods" (lines 1-2) does not positively indicate whether the accessories are limited to leather goods or any other structure following "such as". The remaining claims are indefinite because they depend from indefinite claims.

Allowable Subject Matter

Claims 1-6, 8-11, 13, 21-24, 34, 35, 44, and 47 are allowed.

Claim 33 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents of Davison (US 3529328), Sherman et al. (US 4941236), Berglöff et al. (US 5682653), Karlin (US 6006363), and Galler et al. (US 6035449) teach pertinent fastener structure.

Art Unit: 3677

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on Monday - Friday from 5:30 to 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

A handwritten signature in black ink, appearing to read 'J.R. Brittain', with a stylized, cursive script.

James R. Brittain
Primary Examiner
Art Unit 3677

JRB
January 13, 2003